

Report Date: December 30, 2008

United States District Court

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

for the

DEC 31 2008

Eastern District of Washington

JAMES R. LARSEN, CLERK

**DEPUTY
RICHLAND, WASHINGTON**

**Request for Modifying the Conditions or Term of Supervision
with Consent of the Offender**

(Probation Form 49, Waiver of Hearing is Attached)

Name of Offender: Russell Alan Smith

Case Number: 2:03CR02138-001

Name of Sentencing Judicial Officer: The Honorable Edward F. Shea, U.S. District Judge

Date of Original Sentence: 9/10/2004

Type of Supervision: Supervised Release

Original Offense: Distribution of a Controlled
Substance, 21 U.S.C. § 841(a)(1)

Date Supervision Commenced: 12/17/2008

Original Sentence: Prison - 60 Months; TSR - 36
Months

Date Supervision Expires: 12/16/2011

PETITIONING THE COURT

To modify the conditions of supervision as follows:

- 16 You shall abstain from the use of alcohol and illegal controlled substances, and shall submit to urinalysis testing, as directed by the supervising probation officer, but no more than six tests per month, in order to confirm continued abstinence from these substances.

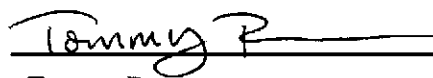
CAUSE

The purpose of this petition is to apprise the Court of the status of the aforementioned case, in light of the Ninth Circuit Court of Appeals' finding in United States v. Stevens (9th Cir. 2005), and to request that the conditions of supervision be modified to authorize a maximum of six random drug tests per month.

Russell Smith was asked whether he would waive his right to a hearing and agree to the modifications as previously described. As indicated by the enclosed Waiver of Hearing to Modify Conditions of Supervised Release form, Mr. Smith has agreed to the proposed modifications.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 12-30-08


Tommy Rosser
U.S. Probation Officer

Prob 12B

Re: Smith, Russell Alan

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THE COURT ORDERS

- ☐ No Action
- ☐ The Extension of Supervision as Noted Above
- ☒ The Modification of Conditions as Noted Above
- ☐ Other



Signature of Judicial Officer

12/31/08

Date

United States District Court

Eastern District of Washington

Waiver of Hearing to Modify Conditions of Probation/Supervised Release or Extend Term of Supervision

I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release or my period of supervision being extended. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to following modification of my Conditions of Probation and Supervised Release or to the proposed extension of my term of supervision:

To modify the conditions of supervision as follows:

- 16 You shall abstain from the use of illegal controlled substances, and shall submit to urinalysis testing, as directed by the supervising probation officer, but no more than six tests per month, in order to confirm continued abstinence from these substances.

Witness:

TR
Tommy Rosser
U.S. Probation Officer

Signed:

RA Smith
Russell Alan Smith
Probationer or Supervised Releasee

12/30/08
Date